

STEPHANIE YONEKURA  
Acting United States Attorney  
JOSEPH B. WIDMAN  
Assistant United States Attorney  
Chief, Riverside Branch Office  
THOMAS D. STOUT (Cal. Bar No. 241348)  
Assistant United States Attorney  
3403 10th Street, Suite 200  
Riverside, California 92501  
Telephone: (951) 276-6938  
Facsimile: (951) 276-6202  
Email: thomas.stout@usdoj.gov

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
KAWAUM MARQUEZ SCOTT, et  
al.,  
  
Defendants.

No. ED CR 13-116-VAP

GOVERNMENT'S SENTENCING POSITION  
FOR DEFENDANT NEKEYIA NECOLE  
WEATHERSPOON

Sentencing Date:  
September 8, 2014

Sentencing Time: 9:00 a.m.

Pursuant to Rule 32(f) of the Federal Rules of Criminal  
Procedure and the Court's order, plaintiff United States of America  
hereby submits its position regarding the sentencing of defendant  
NEKEYIA NECOLE WEATHERSPOON ("defendant Weatherspoon").

//

//

//

//

//

//



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 For the reasons set forth below, the government recommends a  
3 sentence of 150 months' imprisonment to be followed by a ten-year  
4 term of supervised release.

5 **I. FACTUAL BACKGROUND**

6 In August 2012, the child victim and her mother moved to an  
7 apartment in Perris, California at a property where defendant  
8 Nekeyia Necole Weatherspoon ("defendant Weatherspoon") lived. (PSR  
9 ¶ 9.) Defendant Weatherspoon was defendant Kawaum Marquez Scott's  
10 ("defendant Scott") boyfriend. (PSR ¶¶ 11, 28.) At that time, the  
11 child victim was fourteen years old. (PSR ¶ 9.)

12 Soon after the child victim and her mother moved in, defendant  
13 Weatherspoon began recruiting the child victim to work as a  
14 prostitute. Defendant Weatherspoon befriended the child victim,  
15 smoked marijuana with her, and offered her advice about her life.  
16 (PSR ¶ 9; Ex. 1 at 7-8.) Defendant Weatherspoon told the child  
17 victim that she could make a lot of money doing "dates," and that  
18 dates did not necessarily require having sex with the men she met.  
19 (See PSR ¶ 9; Ex. 1 at 8.)

20 In October 2012, defendant Weatherspoon took the child victim  
21 on her first "date" in Woodland Hills, California. Defendant Scott  
22 did not participate in this date. The child victim was required to  
23 perform oral sex on a man for \$60, which defendant Weatherspoon  
24 collected from her. (PSR ¶ 10; Ex. 1 at 8-9.)

25 On October 27, 2012, defendants Scott and Weatherspoon went to  
26 the child victim's apartment and told her to pack a bag and come  
27 with them to Hemet, California. Defendant Scott rented a room at  
28 the Diamond Inn motel. (PSR ¶ 11.) Defendant Weatherspoon took

1 several sexually suggestive pictures of the child victim which  
2 defendant Scott used to create advertisements for the commercial  
3 sexual services of the child victim that he posted to the website  
4 "www.Backpage.com." (Id.) Defendant Scott posted a new  
5 advertisement every day from October 27, 2012, through October 31,  
6 2012. (See Ex. 2.) Defendants Scott and Weatherspoon arranged for  
7 customers who responded to the ads to meet the child victim at the  
8 Diamond Inn for sex. Before the meeting, defendant Scott gave the  
9 child victim a condom, told her how much to charge, told her to  
10 perform any sexual act the customer wanted except for anal sex, and  
11 to tell the customers that she was 18 years old. (PSR ¶ 11.) The  
12 defendants remained in Hemet with the child victim until October 31,  
13 2012, changing motels once. Throughout this time, the child victim  
14 continued to perform sex acts on customers. (Id. ¶¶ 11-14.) The  
15 child victim always gave the money she was paid to the defendants.  
16 (Id.)

17 On November 9 and 17, 2012, defendant Weatherspoon arranged for  
18 the child victim to go on "car dates," in which the child victim was  
19 to meet customers in their cars in public places to have sex. (Id.  
20 ¶¶ 15-17.) Defendant Scott did not participate in these dates.  
21 After the second car date, defendant Weatherspoon offered to let the  
22 child victim keep the money the customer had paid her. Defendant  
23 Scott, however, later came to the child victim's home to retrieve  
24 that money and took it from her by force, implying that he had not  
25 been aware of the dates on which Weatherspoon had been taking the  
26 child victim. (Id. ¶¶ 16-17.)

1 On December 19, 2012,<sup>1</sup> defendant Weatherspoon picked the child  
2 victim up from her high school. Defendant Weatherspoon again took  
3 sexually suggestive photographs of the child victim, which defendant  
4 Scott again used to advertise the child victim's commercial sexual  
5 services. (Id. ¶ 18.) The defendants arranged for the child victim  
6 to have two more car dates, then drove her back to Hemet to meet  
7 additional customers for sex at the Diamond Inn and the Motel 6.  
8 (Id. ¶¶ 18, 20.)

9 During both trips to Hemet, defendants provided the child  
10 victim with drugs and alcohol. (See Ex. 3 at 4.)

11 On November 27, 2013, a grand jury in the Central District of  
12 California returned a six-count indictment charging defendant  
13 Weatherspoon with one count of conspiracy to engage in sex  
14 trafficking of a child in violation of 18 U.S.C. § 1594(c) (Count  
15 One) and five counts of sex trafficking of a child in violation of  
16 18 U.S.C. §§ 1591(a) (Counts 2, 3, 4, 5, 6).

17 On May 1, 2014, defendant Weatherspoon signed a binding plea  
18 agreement pursuant to Federal Rule of Criminal Procedure  
19 11(c)(1)(C), and on May 6, 2014, defendant Weatherspoon appeared  
20 before this Court and pled guilty to Count 1 of the indictment.

## 21 **II. THE PLEA AGREEMENT**

22 In the plea agreement, defendant Weatherspoon agreed to plead  
23 guilty to Count 1 of the indictment, charging her with conspiring to  
24 engage in sex trafficking of a child, which has no mandatory minimum  
25 sentence. The government agreed to dismiss the remaining five  
26

---

27  
28 <sup>1</sup> The child victim turned fifteen years old between the November  
19, 2012 incident and December 19, 2012.

counts, which all charged defendant Weatherspoon with sex trafficking of a child in violation of 18 U.S.C. § 1591(a), all of which were accompanied by mandatory minimum sentences of ten or fifteen years. The parties agreed to the following Guidelines calculations:

Sentencing Guidelines Factor	Offense Levels	Applicable Guideline
Base offense level	30	U.S.S.G. § 2G1.3(a)(2)
Pattern of activity	+5	U.S.S.G. § 4B1.5(b)(1)
Acceptance of responsibility	-3	U.S.S.G. §§ 3E1.1(a), (b)
<b>Total offense level:</b>	32	

The parties also agreed that defendant Weatherspoon's criminal history category was III, and that her applicable Guidelines range was 151-188 months' imprisonment. (Weatherspoon Plea Agreement ¶ 13.) Finally, the parties agreed, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), that defendant Weatherspoon receive a sentence between 84 months' and 168 months' imprisonment, a ten-year term of supervised release with certain agreed-upon conditions, and that defendant Weatherspoon pay full restitution to the child victim. (Id. ¶ 14.)

### III. THE PRESENTENCE REPORT

#### A. OFFENSE LEVEL

The Probation Office found that defendant's total offense level is 30, based on a base offense level of 24 (U.S.S.G. § 2G1.3(a)(4)), a two-level increase for exercising undue influence over the child victim (U.S.S.G. § 2G1.3(b)(2)(B)), a two-level increase for an offense involving a sex act (U.S.S.G. § 2G1.3(b)(4)(B)), a five-level increase for a pattern of activity involving prohibited sexual

1 conduct (U.S.S.G. § 4B1.5(b)), and a three-level decrease for  
2 acceptance of responsibility (U.S.S.G. §§ 3E1.1(a), (b)).<sup>2</sup> (PSR  
3 ¶¶ 33-46.) The government objects to the Probation Office's  
4 calculation of the total offense level.

5 Consistent with the binding plea agreement, the government does  
6 not believe two-level enhancements for exercising undue influence  
7 over the child victim or for an offense involving a sex act apply  
8 under the facts of this case.

9 Disregarding the parties' agreement to apply a base offense  
10 level of 30 under U.S.S.G. § 2G1.3(a)(2), the Probation Office  
11 maintains that the base offense level is 24 because defendant  
12 Weatherspoon's count of conviction is 18 U.S.C. § 1594(c), rather  
13 than 18 U.S.C. §§ 1591(a), (b)(1) or (b)(2), even though defendant  
14 Weatherspoon admitted in substance that the object of the conspiracy  
15 was to traffic a victim under 18 years of age. (PSR ¶ 33.) The  
16 Court should reject this narrow reading of section 2G1.3(a).<sup>3</sup> The  
17 offense level applied to a substantive offense is also applied to a  
18 conspiracy to commit that substantive offense in a variety of  
19 contexts, including civil rights,<sup>4</sup> fraud,<sup>5</sup> and drug trafficking.<sup>6</sup>

---

22 <sup>2</sup> The government hereby moves for the additional one-level  
23 reduction for acceptance of responsibility under U.S.S.G.  
§ 3E1.1(b).

24 <sup>3</sup> Indeed, the Probation Office itself has not previously adopted  
25 this reading of Section 2G1.3. In United States v. Bell, et al., ED  
26 CR 12-57-VAP, several defendants pled guilty to 18 U.S.C. § 1594(c).  
The Probation Office nevertheless applied a base offense level of 30  
under Section 2G1.3(a)(2) to those defendants. (See, e.g., Bell,  
Docket Nos. 170 at 2; 231 at 8.)

27 <sup>4</sup> See 18 U.S.C. § 241; U.S.S.G. App. A (referencing conspiracy  
28 to violate civil rights conviction to same guideline as deprivation  
of rights).

1 There is no reason to believe the Sentencing Commission intended to  
2 carve out an exception to this general rule in the context of child  
3 sex trafficking or for the Court to create such an exception to the  
4 general rule. Conspiring to engage in sex trafficking is no less  
5 serious an offense than sex trafficking itself, and should be  
6 treated similarly under the Guidelines.

7 Applying a base offense level of 30 under U.S.S.G.  
8 § 2G1.3(a)(2), a five-level enhancement under U.S.S.G. 4B1.5(b) for  
9 a pattern of activity involving prohibited sexual conduct, and a  
10 three-level reduction for acceptance of responsibility results in a  
11 total offense level of 32. The government maintains the Court  
12 should apply this total offense level.

13 Even if the Court were to adopt the Probation Office's current  
14 reading of Section 2G1.3, there are factors in this case that  
15 support an upward departure from the guidelines range resulting from  
16 that calculation. As discussed above, defendant Weatherspoon  
17 induced the child victim into prostitution through fraud, namely by  
18 falsely telling her that going on "dates" did not require the child  
19 victim to engage in sex with men for money. Accordingly, defendant  
20 Weatherspoon could have been convicted under 18 U.S.C. § 1591(b)(1),  
21 which would have resulted in a 15-year mandatory minimum and a base  
22 offense level of 34. U.S.S.G. § 2G1.3(a)(1). Alternatively, under  
23 the facts admitted in the plea agreement, defendant could have been  
24

---

25 <sup>5</sup> See 18 U.S.C. § 1349; U.S.S.G. App. A (referencing conspiracy  
26 to commit mail, wire, or bank fraud to Section 2X1.1, which in turn  
incorporates the guideline for the substantive offense).

27 <sup>6</sup> See 21 U.S.C. § 846; U.S.S.G. App. A (referencing conspiracy  
28 to distribute drugs to substantive guidelines applicable to drug  
trafficking).



1 convicted under 18 U.S.C. § 1591(b)(2), which would have resulted in  
2 a ten-year mandatory minimum and the base offense level described  
3 above. The Guidelines calculation and sentencing recommendation of  
4 the Probation Office do not capture the seriousness of defendant  
5 Weatherspoon's crime.

6 **B. CRIMINAL HISTORY**

7 The Probation Office calculated defendant Weatherspoon's  
8 criminal history category as III, based on four criminal history  
9 points. (PSR ¶¶ 48-53.) The government concurs in the probation  
10 office's calculation of defendant Weatherspoon's criminal history.

11 With an offense level of 32 and a criminal history category of  
12 IV, the government maintains that defendant's applicable advisory  
13 guidelines sentencing range is 151-188 months.

14 **IV. THE GOVERNMENT'S SENTENCING POSITION**

15 The government's recommended sentence is sufficient, but not  
16 greater than necessary, to achieve the purposes set forth in 18  
17 U.S.C. § 3553(a).

18 The nature and circumstances of the offense, as well as its  
19 seriousness, support a 150-month sentence. Defendant Weatherspoon  
20 recruited the child victim into a life of commercial sex  
21 trafficking. She did so after befriending the child victim and  
22 taking advantage of her trust. Defendant Weatherspoon knowingly  
23 sold a child to adult men for sex. She did so repeatedly and  
24 without regard for the child's safety or well-being. Defendant  
25 Weatherspoon took the child victim on her first date without  
26 Defendant Scott, and later took the child victim on two additional  
27 dates without defendant Scott's knowledge, direction, or approval.  
28

1 These factors weigh heavily in favor of imposition of a significant  
2 sentence.

3 The need for general deterrence also supports a 150-month  
4 sentence. Cases of this nature are difficult to prosecute, as  
5 victims of sex trafficking are often fearful of turning to law  
6 enforcement due to their own criminal conduct. Even if law  
7 enforcement is alerted to their situation, victims are often  
8 reluctant to testify against their traffickers. Given the severity  
9 of the crime – particularly when it involves minor trafficking  
10 victims – and the difficulty of prosecutions, it is crucial that  
11 defendants who are caught and convicted receive significant  
12 sentences to deter others from becoming involved in human  
13 trafficking, particularly in sex trafficking of children.

14 Finally, the need to avoid unwarranted sentencing disparity  
15 supports a 150-month sentence. Defendant Scott has already received  
16 a 210-month sentence in this matter,<sup>7</sup> corresponding to the low-end  
17 of the applicable Guidelines range as calculated by the parties in  
18 defendant Scott's binding plea agreement.<sup>8</sup> A 150-month sentence for  
19 defendant Weatherspoon accounts for her lower criminal history  
20 category and any lesser role she played in the offense, as it omits  
21 the two-level role enhancement to which the parties stipulated with  
22

---

23 <sup>7</sup> Although the Probation Office now maintains that defendant  
24 Weatherspoon is less culpable than defendant Scott, at the time of  
25 defendant Scott's sentencing, the Probation Office objected to the  
imposition of a two-level supervisory role enhancement for defendant  
Scott on the grounds that both defendants were equally culpable.

26 <sup>8</sup> Both the Probation Office and the Court disagreed with the  
27 parties' Guidelines calculations for defendant Scott and imposed the  
28 additional two-level enhancements for undue influence and commercial  
sex acts, and declined to apply a two-level supervisory role  
enhancement.

1 respect to defendant Scott.<sup>9</sup> Given her significant involvement in  
2 the conspiracy to traffic the child victim – including taking the  
3 child victim on three dates without defendant Scott, at least two of  
4 which were likely done without his knowledge – a sentence shorter  
5 than 150 months for defendant Weatherspoon would represent an undue  
6 sentencing disparity with defendant Scott.

7 **V. CONCLUSION**

8 For the foregoing reasons, the government believes that the  
9 recommended sentence is sufficient, but not greater than necessary,  
10 to comply with the purposes of 18 U.S.C. § 3553(a).

11 The government respectfully requests the opportunity to  
12 supplement its position or respond to defendant as may become  
13 necessary.

---

23 <sup>9</sup> Even if the Court were to apply an additional two-level minor  
24 role reduction under U.S.S.G. § 3B1.2(b), defendant Weatherspoon's  
25 resulting offense level would be 30 under the parties' stipulated  
26 offense level or 28 under the Probation Office's calculations,  
27 resulting in Guidelines ranges of 121-151 months or 97-121 months,  
28 respectively. To bring defendant Weatherspoon's Guidelines range in  
line with the Probation Office's Guidelines calculations and  
recommendation of 84 months' imprisonment, defendant Weatherspoon  
would have to receive a four-level minimal role adjustment under  
3B1.2(a), which is not justified in light of her extensive – and  
often independent – involvement in this very serious offense.